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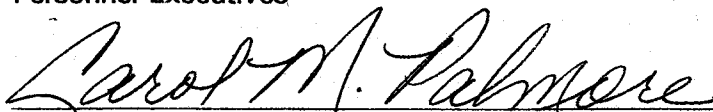
September 14, 1999

MEMORANDUM

PERSONNEL MEMO 99 - 9

TO: Cabinet Secretaries
Agency Heads
Personnel Executives

FROM:


Carol M. Palmore, Secretary

SUBJECT: Compliance with Fair Labor Standards Act

During our recent training sessions on the new Personnel Administrative Regulations, a number of questions were asked about the effect of the recent FLSA related U.S. Supreme Court cases on Executive Branch public employees in Kentucky. The answer is that those cases have no effect on the way we administer FLSA.

The two cases, read together, held that individual state employees do not have the right to sue state employers for violations of the Fair Labor Standards Act in state or federal courts. However, the state personnel regulations, as amended August 25, 1999, still require that agencies administer overtime in compliance with the FLSA.

State employees retain the right to appeal to the State Personnel Board for violations of state regulations under K.R.S. 18A.095. The United States Department of Labor retains the right to conduct wage and hour compliance investigations and enforce the provisions of the FLSA through withholding of federal funds, debarment and lawsuits on behalf of state employees in federal courts. Therefore, it is important that agencies continue to consider all employees Grade 10 or below as non-exempt and to continue to apply the appropriate tests to determine the exempt or non-exempt status of employees in Grades 11 or above. Individual agencies may wish to set a higher threshold than Grade 10 and that is permissible. Agencies should also continue to maintain appropriate records documenting the status of employees and their rate of pay.

If you have any questions with respect to these issues, please contact the Department for Personnel Administration at (502) 564-6464 or our General Counsel at (502) 564-4460.



AN EQUAL OPPORTUNITY EMPLOYER.M/F/D